

UDM: Maryann Jones  
TC 1680

165

FORM PTO-2053-B (REV. 11/2000)  
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JAN 12 2004

TECH CENTER 1600/290

In re Application of: Elizabeth M. Denholm, et al.

Application No.: 09/727,873

Filing Date: December 1, 2000

Title: ATTENUATION OF FIBROBLAST PROLIFERATION

Direct to: Box Reconstruction  
United States Patent and Trademark Office  
Washington, DC 20231

### NOTICE UNDER 37 CFR 1.251 - Pending Application

#### Statement (check the appropriate box):

☒ The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☐ The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).

☐ The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

☐ Applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

August 5, 2003

Date

Signature

Patrea L. Pabst, Reg. No. 31,284

Typed or printed name

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**A copy of this notice should be returned with the reply.**

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Please type (+) inside this box → ☐ +

PTO/SB/21 (08-00)

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/727,873
Filing Date	December 1, 2000
First Named Inventor	Elizabeth M. Denholm et al.
Group Art Unit	1651
Examiner Name	M. Meller
Attorney Docket Number	IT 105

Total Number of Pages in This Submission

## ENCLOSURES (check all that apply)

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/ Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application)<br><input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Other Enclosure(s) (please identify below):<br>Check for \$215.00 |
|---|---|---|

Remarks

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Patrea L. Pabst, Reg. No. 31,284 Suite 2000, One Atlantic Center; 1201 West Peachtree Street, N.E.; Atlanta, GA 30309-3400	Holland & Knight LLP
Signature		
Date	November 27, 2002	

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: **November 27, 2002**

Typed or printed name	Patrea L. Pabst	Date	November 27, 2002
Signature			

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**FEE TRANSMITTAL**  
**for FY 2002**

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$ 620.00)

Complete if Known

Application Number	09/727,873
Filing Date	December 1, 2000
First Named Inventor	Elizabeth M. Denholm
Examiner Name	M. Meller
Group Art Unit	1651
Attorney Docket No.	IT 105

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number  
Deposit Account Name

50-1868

Holland &amp; Knight LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☐ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 740	201 370	Utility filing fee	
106 330	206 165	Design filing fee	
107 510	207 255	Plant filing fee	
108 740	208 370	Reissue filing fee	
114 160	214 80	Provisional filing fee	

SUBTOTAL (1) (\$)

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
	- 20		X		
	- 3		X		

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 84	202 42	Independent claims in excess of 3
104 280	204 140	Multiple dependent claim, if not paid
109 84	209 42	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for <i>ex parte</i> reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 400	216 200	Extension for reply within second month	
117 920	217 460	Extension for reply within third month	460.00
118 1,440	218 720	Extension for reply within fourth month	
128 1,960	228 980	Extension for reply within fifth month	
119 320	219 160	Notice of Appeal	160.00
120 320	220 160	Filing a brief in support of an appeal	
121 280	221 140	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,280	241 640	Petition to revive - unintentional	
142 1,280	242 640	Utility issue fee (or reissue)	
143 460	243 230	Design issue fee	
144 620	244 310	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Processing fee under 37 CFR 1.17(q)	
126 180	126 180	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 740	246 370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 740	249 370	For each additional invention to be examined (37 CFR § 1.129(b))	
179 740	279 370	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 620.00)

## SUBMITTED BY

Name (Print/Type)

Patrea L. Fabst

Registration No.  
(Attorney/Agent)

31,284

Complete (if applicable)

Telephone

(404) 817-8473

Signature

Date

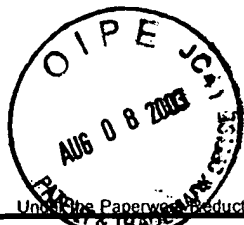
August 28, 2002

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TECH GEN 60023900

PTO/SB/17 (11-01)

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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 215.00

## Complete if Known

Application Number	09/727,873
Filing Date	December 1, 2000
First Named Inventor	Elizabeth M. Denholm et al.
Examiner Name	M. Meller
Group Art Unit	1651
Attorney Docket No.	IT 105

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number 50-1868

Deposit Account Name Holland & Knight LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
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Independent Claims - 20			
Multiple Dependent Claims - 3			

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SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater. For Reissues, see above

## FEE CALCULATION (continued)

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169 900	169 900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 215.00

## SUBMITTED BY

Name (Print/Type)	Patrea L. Pabst	Registration No. (Attorney/Agent)	31,284	Telephone	404-817-8473
Signature		Date	11/27/02		

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UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/727,873	12/01/2000	Elizabeth M. Denholm	IT 105

CONFIRMATION NO. 7540



\*OC00000000855359\*

Patrea L. Pabst  
Arnall Golden & Gregory, LLP  
2800 One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3450

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AUG 08 2002

PATENT DEPT.

Date Mailed: 08/01/2002

Title: Attenuation of fibroblast proliferation

Publication No. US-2002-0102249-A1  
Publication Date: 08/01/2002

## NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

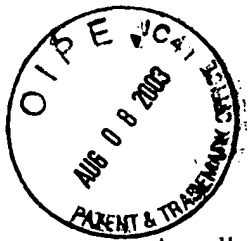
The publication may be accessed through the USPTO's publicly available Searchable Databases via the Internet at [www.uspto.gov](http://www.uspto.gov). The direct link to access the publication is currently <http://www.uspto.gov/patft/>.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Crystal Gateway 4, Room 335, Washington, D.C. 20231, or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at [www.uspto.gov](http://www.uspto.gov) using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently <http://pair.uspto.gov/>. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at (703) 305-3028.

Customer Service Center  
Initial Patent Examination Division (703) 308-1202Docketed for \_\_\_\_\_  
By: JS  
Date: 8-15-02



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECH CENTER 1600/2900

Appellants: Elizabeth M. Denholm, Elizabeth Cauchon, and Paul J. Silver

Serial No.: 09/727,873

Group Art Unit: 1651

Filed: December 1, 2000

Examiner: M. Meller

For: *ATTENUATION OF FIBROBLAST PROLIFERATION*

Assistant Commissioner for Patents  
Washington, D.C. 20231

**STATUS REQUEST**


Sir:

Applicants filed an Appeal Brief in this case on November 27, 2002. No response has been received from the Patent Office. A telephone call to the Examiner on February 27, 2003 revealed that he was unable to locate the file. Another call to the Examiner on March 5, 2003 received the same response.

**The failure of the Patent Office to act timely in this case should result in Patent Term Extension.**

Please advise the status of this case.

Respectfully submitted,

  
\_\_\_\_\_  
Patrea L. Pabst  
Reg. No. 31,284

Date: March 26, 2003  
HOLLAND & KNIGHT LLP  
2000 One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309  
404-817-8473 (Phone)  
404-817-8588 (Fax)

U.S.S.N. 09/7627,873  
Filed December 1, 2000  
STATUS REQUEST

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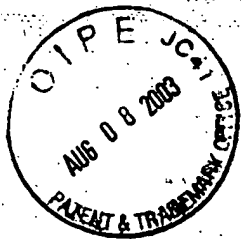
CERTIFICATE OF FACSIMILE TRANSMISSION

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Date: March 26, 2003

  
Jean Hicks

ATL1 #570211 v1



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The "Received" stamp of the Patent Office imprinted hereon acknowledges the filing of:

Applicants: Elizabeth M. Denholm, Elizabeth Cauchon and Paul J. Silver  
Serial & Docket Nos.: 09/727,873 IT105  
Filed: December 1, 2000

Papers Submitted:

Appeal Brief with certificate of mailing, Petition for Extension of Time Under 37 CFR 1.136(a) (in duplicate), Transmittal Form, Fee Transmittal (in duplicate), check for \$215.00

Date: November 27, 2002

Client/Matter No.: 077818.00002

By: Patrea L. Pabst, Reg. No. 31,284

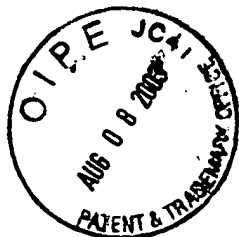
ATL1 #554648 v1

Docketed for \_\_\_\_\_

By: [Signature]

Date: 12-22-02





\* \* \* COMMUNICATION RESULT REPORT ( MAR. 26. 2003 3:59PM ) \* \* \*

TTI HOLLAND &amp; KNIGHT

TRANSMITTED/STORED MAR. 26. 2003 3:47PM  
FILE MODE OPTION

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Docketed

By:

Date: 4-3-03

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E-3) NO ANSWERE-2) BUSY  
E-4) NO FACSIMILE CONNECTION

## Law Offices

## HOLLAND &amp; KNIGHT LLP

One Atlantic Center  
1201 West Peachtree Street, N.E.  
Suite 2000  
Atlanta, Georgia 30309-3400404-817-8500  
FAX 404-881-0470  
<http://www.hklaw.com>Atlanta  
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Rio de JaneiroSão Paulo  
Tel Aviv  
Tokyo  
\*Representative Offices

## FACSIMILE

## TO:

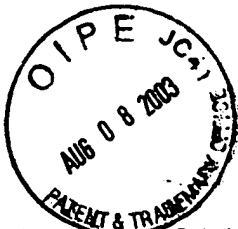
Group 1600 After Final	Assistant Commissioner for Patents	703-308-4242
NAME	COMPANY/FIRM	FAX NUMBER
Washington	DC	703-308-0198
CITY	STATE	(TELEPHONE NUMBER)

## FROM:

Patrea L. Pabst	404-817-8473	
NAME	TELEPHONE	TOTAL PAGES (Including Cover Sheet)

## FOR THE RECORD:

DATE: March 27, 2003	URGENCY: <input type="checkbox"/> SUPER RUSH	<input type="checkbox"/> RUSH	<input type="checkbox"/> REGULAR
FAXED BY:	FILE #: 077818/00002	CLIENT NAME: IT 105	



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JAN 12 2004

TECH CENTER 1600/2900

PTO/SB/97 (12-97)

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Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

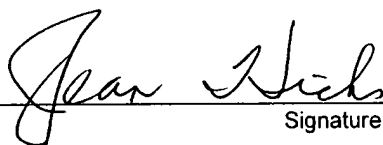
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U.S.S.N. 09/727,873  
Filed December 1, 2000  
NOTICE OF APPEAL and  
PETITION FOR EXTENSION OF  
TIME

**Certificate of Transmission under 37 CFR 1.8**

I hereby certify that this correspondence is being facsimile transmitted to the  
Patent and Trademark Office

on August 28, 2002  
Date

  
Signature

Jean Hicks

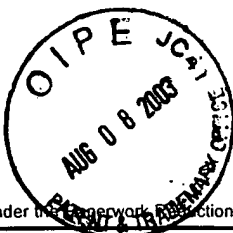
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each submitted paper.

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PTO/SB/31 (08-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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NOTICE OF APPEAL FROM THE EXAMINER TO THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

IT 105

In re Application of  
Elizabeth N. Denholm, et al.Application Number  
09/727,873Filed  
December 1, 2000For ATTENUATION OF FIBROBLAST  
PROLIFERATION

Group Art Unit 1651

Examiner M. Meller

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the  
examiner dated, 3/27/02, rejecting the following claims: 1-11 and the AdvisoryAction mailed 7/16/02 maintaining the rejection

The fee for this Notice of Appeal is (37 CFR 1.17(b))

\$ 320.00☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee  
shown above is reduced by half, and the resulting fee is:\$ 160.00☐ A check in the amount of the fee is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☐ The Commissioner has already been authorized to charge fees in this application to a  
Deposit Account. I have enclosed a duplicate copy of this sheet.☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit  
any overpayment to Deposit Account No. 50-1868. I have enclosed a duplicate  
copy of this sheet.☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.**WARNING: Information on this form may become public. Credit card information should not  
be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the

☐ applicant.☐ assignee of record of the entire interest.☒ attorney or agent of record.☐ attorney or agent acting under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a) \_\_\_\_\_

Signature

Patrea L. Pabst, Reg. 31,284

Typed or printed name

August 28, 2002

Date

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on  
the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC  
20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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UNITED STATES PATENT AND TRADEMARK OFFICE

TECH CENTER 1600/2900

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,873	12/01/2000	Elizabeth M. Denholm	IT 105	7540

7590

07/16/2002

Patrea L. Pabst  
Arnall Golden & Gregory, LLP  
2800 One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3450

EXAMINER

MELLER, MICHAEL V

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 07/16/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

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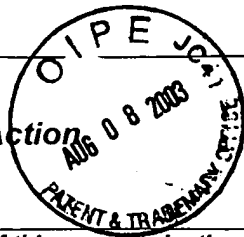
JUL 21 2002

PATENT DEPT.

Docketed for \_\_\_\_\_  
By: [Signature]  
Date: 9-16-02

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Advisory Action



Applicati n No.

09/727,873

Examiner

Michael V. Meller

Applicant(s)

DENHOLM ET AL.

JAN 12 2004

Art Unit

1651

TECH CENTER 1600/2900

--The MAILING DATE of this communication appears on the cover sheet with th correspond nce address --

THE REPLY FILED 28 June 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the reasons of record. Applicant has basically re-stated the same arguments as before. It is clear that in Yacoby-Zeevi diseases such as cystic fibrosis are treated by the claimed enzyme. It is also clear that cystic fibrosis involves the formation of fibrous tissue. It is clear from Yacoby-Zeevi that the enzyme is used to treat cystic fibrosis, thus degrading the fibrous tissue. Thus, a method of decreasing fibrous tissue size is taught by Yacoby-Zeevi since the reference uses the same enzymes to treat cystic fibrosis which will decrease the fibrous tissue size since cystic fibrous is being treated.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-11.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

U.S. Patent and Trademark Office

PTO-303 (Rev. 04-01)

Advisory Action

Part of Paper No. 7

A handwritten signature in black ink, appearing to read "M. V. Meller", with a long horizontal flourish extending to the right.

**MICHAEL V. MELLER**  
**PATENT EXAMINER**



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,873	12/01/2000	Elizabeth M. Denholm	IT 105	7540

7590

03/27/2002

Patrea L. Pabst  
Arnall Golden & Gregory, LLP  
2800 One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3450

EXAMINER

MELLER, MICHAEL V

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 03/27/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Docketed for ① 4-27-02 Rm dr  
By: QOS ② 5-27-02 Rm dr  
Date: 4-19-02 ③ 6-27-02 Rsp w/o ext  
④ 7-27-02 Rsp w/1 ext  
⑤ 8-27-02 Rsp w/2 ext  
⑥ 9-27-02 Rsp w/3 ext  
Drop dead Date

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**Application No.**

09/727,873

**Applicant(s)**

DENHOLM ET AL

**Examiner**

Michael V. Meller

**Art Unit**

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2001.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.



## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of chondroitinase B and organ fibrosis is noted. The election is still deemed to be proper and is therefore made FINAL.

### ***Oath/Declaration***

The oath is defective for the reasons of record.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yacoby-Zeevi (Yacoby) taken with Triscott for the reasons of record and for the reason which follow.

Applicant argues that the only data presented in Yacoby is for heparanase and that the data is confined to showing a reduction in sputum viscosity. Further, applicant argues that Yacoby does not address the issue of fibroblast proliferation nor collagen production.

Yacoby is clear that he uses chondroitinases (see col. 6, lines 55-61, cols. 7, line 65-col. 8, line 5, etc.) in his method. Further, it is also clear that Yacoby is treating the same disease as applicants and in the same way, see col. 6, lines 52-65, col. 8, lines 13-21, etc. Yacoby would inherently be performing the claimed invention since the same enzyme is being given to the same patient in the same way. It is clear from Yacoby that he wants to clear out airways. This would in fact, also decrease fibrous tissue size as claimed.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's allege that Triscott cannot be used to teach that chondroitinase B could be used to treat patients for any disease. This is simply not true. It is well known in the scientific community that chondroitinases are well known to be used to treat diseases as is evidenced by Yacoby. Triscott was only used to provide the evidence that one of ordinary skill in the art would have been motivated to use chondroitinase B specifically since it is used so commonly as a specific type of chondroitinase.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of

ordinary skill in the art at the time the invention was made, as evidenced by the references.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 703-308-4230. The examiner can normally be reached on Monday thru Friday: 9:00am-5:30pm.

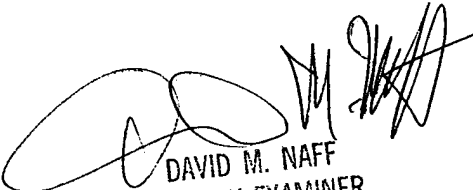
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 703-308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and 703-308-0294 for After Final communications.

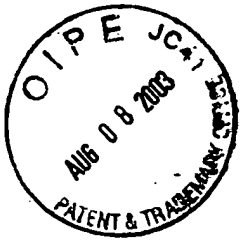
Application/Control Number:  
09/727,873  
Art Unit: 1651

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

MVM  
March 21, 2002

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 1651



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## RECORD OF TELEPHONE CONVERSATION

TECH CENTER 1600/2900

DATE: 2/27/03  
CLIENT/MATTER NO: 077818/2 DOCKET NO: 1T 105  
PERSON SPOKEN TO: Exam Michael Miller  
PHONE NO: 703-308-4230 FAX NO.:  
RE: 09/727,873

Called Exam re: Examiner's As.  
He said they can't find the  
file. They are looking and  
he will process it as  
soon as possible after he  
gets the file.

8

3/5/2003

TC to examiner re 1067

PLP

3/26/2003

PAIR shows appeal brief has  
been written for exam -  
PLP

Docketed  
By: [initials]  
Date: 4/3/03